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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/062,624	01/31/2002	David H. Walker	D6152CIP2/D1	4747

7590

03/18/2003

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EXAMINER

BASKAR, PADMAVATHI

ART UNIT

PAPER NUMBER

1645

DATE MAILED: 03/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/062,624

Applicant(s)

WALKER ET AL.

Examiner

Padmavathi v Baskar

Art Unit

1645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12 and 13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 12-13 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other: ____.

Art Unit: 1645

RESTRICTION

1. Applicant's amendment filed on 1/31/02 has been entered. Claims 1-11 and 14-20 have been canceled. Claims 12-13 are pending in the application.

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 12 and 13 to a recombinant protein, SEQ.ID.NO: 2 classified in class 530, subclass 350.

II. Claims 12 and 13 to a recombinant protein, SEQ.ID.NO: 4 classified in class 530, subclass 350.

III. Claims 12 and 13 to a recombinant protein, SEQ.ID.NO: 6 classified in class 530, subclass 350.

IV. Claims 12 and 13 to a recombinant protein, SEQ.ID.NO: 40 classified in class 530, subclass 350.

V. Claims 12 and 13 to a recombinant protein, SEQ.ID.NO: 42 classified in class 530, subclass 350.

VI. Claims 12 and 13 to a recombinant protein, SEQ.ID.NO: 44 classified in class 530, subclass 350.

VII. Claims 12 and 13 to a recombinant protein, SEQ.ID.NO: 46 classified in class 530, subclass 350.

3. The inventions are distinct, each from the other because of the following reasons:

Inventions 1-VII are unrelated: In the instant case the different inventions, represent structurally different polypeptides SEQ.ID.NOS: 2, 4, 6, 40, 42, 44, and 46 and the polynucleotides SEQ.ID.NOS: 1, 3, 5, 39, 41, 43, and 45 encoding them. Therefore, where structural identity is required, such as for hybridization or expression, the different sequences have different effects. Each recombinant protein has specific amino acid sequence as

Art Unit: 1645

represented by specific sequence identification number. For example, SEQ.ID.NO: 2 contain 278 amino acids and SEQ.ID.NO: 4 contains 283 amino acid residues. Therefore, each SEQ.ID.NO is considered as a separate invention.

4. Because these inventions are distinct for the reasons given, restriction for examination purposes as indicated is proper.

5. Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

6. Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

7. Applicant is reminded that upon the cancellation of claims or SEQ.ID.NOS to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Padmavathi v Baskar whose telephone number is (703) 308-8886. The examiner can normally be reached on M-F (6:30A.M-4: 00 P.M.) First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynette Smith can be reached on (703) 308-3909. The fax phone numbers for the

Art Unit: 1645

organization where this application or proceeding is assigned are (703) 308-4242 for regular communications and (703) 308-4242 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

Padma Baskar

3/11/03


LYNETTE R. F. SMITH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600